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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,961	12/05/2001	Jason G. Sandri	2207/12035	1389
23838 7590 09/21/2007 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			EXAMINER TRUONG, CAMQUY	
			ART UNIT 2195	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/001,961

Applicant(s)

SANDRI ET AL.

Examiner

Camquy Truong

Art Unit

2195

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: 23.

Claim(s) rejected: 1-22.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

MENG-AL T. TAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant amendment filed on 8/29/07 has been considered but they are not persuasive:

Applicant argued in substance that:

- (1) the cited references, taken singularly or in combination, fail to teach or suggest the semaphore and the resource descriptor as cited in this claim.
- (2) the cited references, taken singularly or in combination, fail to teach or suggest the resource descriptor as cited in this claim.
- (3) Both Hays and Forman only refer to one item to control access to a shared resource and not the two levels of control present in the pending claim.
- (4) there is no motivation for the combination of Hays and Forman, since they address different objects in different ways.

Examiner respectfully traverses Applicant's remarks:

As to point (1), Forman teaches if access denied (resource file is locked and access by other processor), waiting and retrying until exclusive access to file is obtained (col. 5, lines 1-11; col. 6, lines 9-11). It obvious that Forman teaches that in order to exclusive access to resource file, it has to use the semaphore method to obtain the lock before accessing to share resource file. In addition, Forman teaches each exclusive write lock (semaphore) ties up a process file descriptor (col. 4, lines 45-46).

As to point (2) Forman teaches shared control file is used to write identifying data including the master identity and a timestamp (col. 5, lines 3-5). It would have been obvious that Forman teaches shared control file is a resource descriptor. In addition, Hays teaches control register for storing data indication of current state of availability of each resource and a unique digital code assigned to the particular processor contending for usage of resource (col. 10, lines 7-17, and lines 22-28).

As to point (3) Hays teaches the two levels of control access to a share resource (accessing and examining the current contents of control register (resource descriptor) for share resource, and using resource only if a true comparison exists (resource is available) (col. 10, lines 45)).

In addition, Forman teaches the two levels of control access to a share resource (obtains exclusive access to a shared control file to write identifying data to the file and examine the control file to determine whether the requesting process is the master process. If it is, it may access the resource (col. 5, lines 1-31)) .

As to point (4), In response to applicant's argument Applicant argued that there is no motivation for the combination of Hays and Forman, since they address different objects in different ways. See *In re fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Hays and Forman teach controlling allocating shared resource to processors, such as, Hays teaches allocating the usage of shared resource to multiprocessor by using a control register which is resource descriptor (col. 1, lines 7-16; col. 10, lines 9-13) and Forman teaches managing of a shared control file (resource descriptor) that designates one of a number of distributed processes as the master process for controlling access to shared resource (col. 1, lines 7-17) Thus, It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of obtaining exclusive access to resource descriptor if lock is obtain and release exclusive access as taught by Forman to the invention of Hays because this would improve the efficiency using the share resource among a plurality of logical processors, particularly, improve master process efficiency by reducing the length of time exclusive control over a master process indicator is required.